

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 995 of 2004(M/B)

Amarpali Institute of Management
and Computer Applications through
its Secretary Narendra Dhingra,
Kala Dongi Road, Haldwani,
Distt. Nainital

.....
Versus

Petitioner

State of Uttaranchal and
others

.....
.....

Respondents

Writ Petition No. 1025 of 2004(M/B)

Maa Saraswati Charitable Trust
Through its Chairman Shri Hari
Om Kumar Garg and another

.....
Versus

Petitioners

State of Uttaranchal and
others

.....

.....

Mr. Ranjit Saxena, learned counsel for the petitioners
Mr. K.P.Upadhayaya, learned counsel for the State
Mr. B.D.Upadhayaya, learned counsel for the Kumaon University
Mr. L.P.Naithani, Senior Advocate, learned counsel for the Garhwal University.

Coram: Hon. V.S.Sirpurkar, C.J.
Hon. Irshad Hussain, J.
Dated: October 15 , 2004

[Per Hon'ble the Chief Justice]

1. By way of interim order, we direct that the Examination for the B.Ed. shall be held by the Kumaon University, Nainital.

2. It is reported by Mr. B.D.Upadhayaya, learned counsel for the Kumaon University that there is already one examination being held for the institution called 'Maa Saraswati Institute of Management and Technology'. Unfortunately, the University did not advertise for the 50 seats in Amarpali Institute of Management and Computer Application. We are now directing the University to do that. This is because the State Government had already directed Amarpali Institute of Management and Computer Application not to hold the examination by their communication dated 02.08.2004, yet the Amarpali Institute of Management and Computer Application went ahead

with the examination in which 464 students appeared, whereas in the general examination conducted by the University 10,000 student appeared. We are directing the University to hold fresh examinations because there could be some persons, who want to seek admission either in Amarpali Institute of Management and Computer Application or Maa Saraswati Institute of Management and Technology. Therefore, it will be proper for the University now to hold examination for the petitioners. We are told that the last date for accepting the application form is already fixed as 20th October, 2004. That will be date for Amarpali Institute of Management and Computer Application as well. The advertisement will appear in the tomorrow's local news paper, namely, Amar Ujala, Uttar Ujala and Dainik Jagaran. We are passing these orders in terms of the orders passed by the Supreme Court as also in terms of the orders passed by the Apex Court in the case of Islamic Academy of Education and another Vs. State of Karnataka and others reported in (2003) 6 SCC 697 and T.M.A. Pai Foundation Vs. State of Karnataka (2002) 8 SCC 481. The examinations held by the Amarpali Institute of Management and Computer Application on 19.09.2004 shall be treated as non est and shall have no effect.

3. The students who wish to appear in the examination held by the University would have to pay the fees as per University rules. Once these orders are passed, there will be no question of considering the writ petitions any further.

4. If the examinations are not held as per the orders, the admissions will be given as per the examination held by the Amarpali Institute of Management and Computer Application.

5. The Garhwal University has unnecessarily been joined in these petitions. It shall be removed from the array of the respondents.

6. Writ petitions are disposed of accordingly.

(Irshad Hussain, J.)
15.10.2004

(V.S.Sirpukar, C.J.)
15.10.2004

A